

Karnal Improvement Trust

Vs

Ram Parkash and Others

Civil Appeal No. 5259 of 1996

21.03.1996

ORDER

1. Though the respondents have been served, no one is appearing on behalf of the respondents.
2. Leave granted.
3. This appeal by special leave arises from the order of the High Court of Punjab and Haryana made in CR No. 1307 of 1993 on 14-12-1993. It is not necessary to dilate upon all the material facts. Suffice it to state that this Court on an earlier occasion had remanded the selfsame matter for determination of the compensation of the Phar land. Pending the determination, the respondents filed execution application for realisation of certain amount said to be due. The appellant-Trust filed objection stating that the appellant had deposited more than what was due to the respondents. Therefore, the execution application deserves to be dismissed. The objection was overruled and on revision, the High Court confirmed the same. Thus this appeal by special leave.
4. The an analogous situation when the very award of the Tribunal was questioned by the appellant, this Court in Karnal Improvement Trust v. Parkash Wanti ((1995) 5 SCC 159) had held that the judgment of the Tribunal without there being participation by the other members, is illegal and non est. Accordingly, it was set aside. Consequently, in law as on date, there is no award in existence. Resultantly, the respondents cannot execute the decree until an award is made afresh in accordance with law. The appellant admittedly had deposited the amount pending revision in the High Court. In view of the fact that the award was set aside, any amount paid would be subject to the result in the award that could be made by Tribunal under the Act.
5. The appeal is accordingly disposed of. No costs.